

RESTRAINS PAYING WEST END DIVIDENDS

Judge Averill Hears the Jim Butler Exparte Proceeding

FIGHTING IS ON IN EARNEST ON PLAINS OF FLANDERS

REPORTS FROM EAST AND WEST
FRONTS INDICATE BATTLES
ARE RAGING.

(By Associated Press.)
LONDON, Dec. 3.—The increasing
thunder of guns in the vicinity of
Ypres and the arrival at Bruges of
transport bearing wounded men,
leads to the conclusion that there is
a greater degree of activity in West
Flanders than officially reported.

All reports agree that the contest
in Poland is undecided with the Ger-
mans making desperate efforts to re-
sume their forward movement in the
direction of Warsaw.

General Rennenkampf has been
made the scapegoat on account of
the German forces breaking through
the Russian circle. It is reported
that his delay of two days in bring-
ing Russian reinforcements was re-
sponsible for the German success.

Major Morant, the German military
critic, maintains that the long re-
sistance and unexpected recuperative
power of the Austrians, coupled with
Russian losses in Poland, deprived
the czar of nearly one-third of his
first line troops, so the Russian of-
fensive power was irretrievably im-
paired.

Australian and New Zealand troops
were disembarked in Egypt to assist
in the defense of that country and
will complete their training there.
When the training is completed they
will go direct to the front.

HOLD A CONFERENCE ON FIELD OF BATTLE

KAISER MEETS AUSTRIAN HEIR
APPARENT AND COMMAN-
DER IN CHIEF.

(By Associated Press.)
BERLIN, Dec. 3.—Emperor Wil-
helm held a conference yesterday at
Breslau, Silesia, with Archduke Fred-
erick, commander in chief of the
Austro-Hungarian army, Archduke
Charles Francis, heir to the throne,
and General Von Hoetzendorf. To-
day's official statement says there is
nothing important in either theater
of war.

AMERICAN STUDENTS ENLIST WITH RELIEF

OXFORD SCHOLARSHIP BOYS
VOLUNTEER FOR BELGIAN
SERVICE.

(By Associated Press.)
LONDON, Dec. 3.—Ten American
students at Oxford, eight of them
Rhodes scholars, are going to Bel-
gium with the American relief com-
mission. Among them E. F. Hollman,
Stanford, E. T. Kittredge, University
of California, O. O. Lauder milk, Wil-
cox, Arizona, and G. F. Spaulding,
Los Angeles.

Bombs Drop On Krupp Factory

(By Associated Press.)
LONDON, Dec. 3.—It is re-
ported that the Krupp factory
at Essen, Germany, was bom-
barded yesterday by an aero-
plane who dropped bombs on the
buildings where cannon are
manufactured. The airmen es-
caped unhurt. Extent of the
damage was not ascertained.

NEW FIRE SERVICE MAY BE RESULT OF INSPECTION

UNDERWRITERS' ENGINEER
COMES TO TONOPAH TO RE-
COMMEND CHANGES.

R. B. Mathews, inspecting engineer
of the Board of Fire Underwriters of
the Pacific, came in this morning
from San Francisco for the purpose
of examining the local water service
available for use at fires with the
idea of making suggestions to the
county commissioners for a much
needed improvement.

Mr. Mathews is familiar with the
situation, having spent a week here
when the Public Service Commission
was inquiring into water rates, and
will be able to outline a report in a
very short time. He says the county
commissioners cannot expect to do
much with \$10,000 which they have
raised as a special fire levy and he
will set forth the fact that to do the
work well it will cost a great deal
more than that figure. He promises,
as soon as the change is made, that
the underwriters will at once give
the people the benefit by reducing
the rates now in force, which are
high owing to the lack of fire pro-
tection.

LIQUOR DEALERS OF ARIZONA MUST KICK IN NOW

TEST CASE OF PROHIBITION TO
BE MADE WITH BEST
LEGAL TALENT.

(By Associated Press.)
PHOENIX, Dec. 3.—Eight of the
most prominent lawyers of Arizona,
including former Governors Kibbey
and Sloan, and Attorney General Bul-
lard, who just has resigned, have
been engaged by the liquor men to
fight the prohibition amendment. A
committee, headed by J. C. Adams,
proprietor of the largest hotel of the
state, will direct the attorneys that
liquor men in every county except
Apache and Graham be assessed, one-
third now and the balance if the sal-
oons open after the first of the year.

INCREASE IN MARRIAGE RATE IN GREAT BRITAIN

(By Associated Press.)
LONDON, Dec. 3.—One of the de-
velopments of the war is the increase
in the marriage rate in Great Britain.
The last quarterly report, just made
public, shows a rate 3.1 per thousand
above that of the same period last
year. This is the highest rate re-
corded for any three-months period
since 1906.

FRENCH PARLIAMENT WILL MEET IN PARIS

(By Associated Press.)
PARIS, Dec. 3.—The French parlia-
ment is called in extraordinary ses-
sion in Paris December 22. Members
of the cabinet leave Bordeaux next
week for Paris.

KINGDOM OF ITALY NEUTRAL AND WILL REMAIN SO

(By Associated Press.)
ROME, Dec. 3.—In opening the Ital-
ian parliament, Premier Salandra
stated there was nothing in the pres-
ent course of developments prompt-
ing Italy to alter its policy of neu-
trality.

TODAY AND A YEAR AGO.

Official readings of the ther- mometer by the United States observer at Tonopah:		
	1914	1913
5 a. m.	28	18
9 a. m.	29	18
12 noon	31	20
2 p. m.	33	23

MANHATTAN LEASER IN CRITICAL CONDITION

SUFFERING FROM ENLARGEMENT
OF THE HEART IN LOS
ANGELES.

Cecil Chapman, former well known
leaser of the Manhattan district, and
formerly of Tonopah, is suffering
from a strange malady in a Los An-
geles sanitarium. He is in a very
critical condition and not expected
to live. Surgeons in attendance say
the heart shows an enlargement
more than any cases on record and
the end may come at any time. Mr.
Chapman returned recently from Eu-
rope, where he promoted a placer
property in Montana.

OLD WATER MAN DYING IN MINERS' HOSPITAL

TAKEN TO HOSPITAL, WHERE
AN OPERATION WAS
PERFORMED.

Henry Eck, the pioneer waterman
who owns the famous well north of
town, was taken to the Mine Oper-
ators' hospital on the first of Decem-
ber for the purpose of submitting to
an operation for cancer of the liver.
Dr. McLeod found the disease had
advanced too far and that nothing
could be done for the patient except
to alleviate his sufferings. A sister
of Mr. Eck in Kansas was advised
of the circumstances and urged to
come at once.

KING OF ENGLAND GOES ON THE FIRING LINE

(By Associated Press.)
LONDON, Dec. 3.—King George of
England, who is visiting the British
lines in Flanders, went out on the
firing line today, according to tele-
phone messages from Calais.

WINGFIELD BUYS STOCK FROM SISKIYOU CATTLEMAN

MONTAGUE, Cal., Dec. 3.—J. A.
Walker has sold to George Wingfield
125 head of dairy cows.
J. C. Hisey, representing Wingfield,
made the purchase, and W. Garetson,
of Carson City, and J. B. Davidson,
of Scott Valley, loaded the cattle.
The cows were all subjected to the
tuberculin test by Dr. W. E. Stickle,
veterinarian, of Etna.

BRITISH DO NOT INTEND DELAY SHIPS OF THE U. S.

(By Associated Press.)
WASHINGTON, Dec. 3.—The Brit-
ish ambassador gave the state depart-
ment assurance that Great Britain
did not intend to delay American
ships unduly in searching for contra-
band.

BELGRADE TAKEN AT POINT OF THE BAYONET

(By Associated Press.)
BUDAPEST, Dec. 3.—Belgrade was
taken at the point of Austro-Hungar-
ian bayonets. Troops approached the
city from the westward and rushed
the defenses.

HARD GRINDING FIGHT IS ON BEFORE WARSAW

(By Associated Press.)
PETROGRAD, Dec. 3.—The Ger-
man campaign against Warsaw now
seems persistent dogged grinding
against the Russian center.

HEARING ON AMENDING COMPLAINT SET FOR SATURDAY AFTERNOON

Yesterday at 5 o'clock in the after-
noon the attorneys for the Butler
Mining company made an ex parte
application to the district court in
the case of the Jim Butler Tonopah
Mining company vs. West End Con-
solidated Mining company for an or-
der directed to the defendant com-
pany to show cause why the plain-
tiff's motion and application for an
injunction pending the determination
of the action, restraining the pay-
ment of dividends, the disposition or
encumbering of assets and any and
all disbursements save only for ordi-
nary mining and milling expenses.
The motion and application also in-
cluded a demand for a temporary re-
straining order as to the same mat-
ters pending the hearing on the show
cause order on the date fixed by the
court.

The matter being ex parte, the at-
torneys for the defendant appeared
merely as friends of the court to
suggest that inasmuch as a hearing
on the show cause order, which
would unquestionably be resisted,
would require two weeks or more,
and that any such hearing had with-
in the near future would necessarily
delay trial of the case proper, which
is set down for next Tuesday, that
the show cause order ought not to be
made returnable before the hearing
and determination of the case upon
its merits. It was also suggested
that the injunction applied for and
the restraining order as well were
broader in their scope than the court
was authorized to make under the
law. After some discussion of the
matter and a conference between the
attorneys for the respective parties,
the following understanding was reached:

Result of Conference.

First—That a temporary restrain-
ing order pending the hearing on the
application for the injunction might
issue restraining the declaration of
dividends only.

Second—That the show cause order
on the application for an injunction
should be indeterminate as to date
and capable of being called up for
hearing upon five days' notice by
either side.

The understanding is that a
lengthy hearing as to both facts and
law in respect as to the granting the
injunction applied for be put over
until after the trial and determina-
tion of the case proper in the local
district court. The effect being that
if the determination was favorable
to the defendant the hearing would
become unnecessary. In the mean-
time the restraining order as to divi-
dends will remain in force.

The Motion to Amend.

At the conclusion of the consid-
eration of the matter of the injunction
the attorneys for the plaintiff pre-

sented their motion for permission to
amend their complaint by including
in addition to the 25,000 tons sued
for taken from the eastern area
50,000 tons additional taken from the
western area. The amendment also
provides for a change in the prayer
asking for recovery of \$1,000,000 in-
stead of \$500,000 originally sued for.
The attorneys for the defendant stated
that this 30,000 tons sought to be
included in the action taken from the
western area represented not only
ores extracted by the West End com-
pany under a contract from the But-
ler company, but also all of the ores
extracted in that area by the Mount
Brougher Leasing and Development
company prior to January 1, 1913,
under a lease from the Butler com-
pany. It was stated also that if the
amendment was to be permitted so
soon before the day set for trial a
continuance of the trial would be
necessary to enable the defendants
to intelligently answer the amended
complaint. Because of this fact and
the further fact that the taking of
testimony as to tonnage and values
concerning the alleged trespass, be-
fore the determination by the court
of the question of the ownership of
the ores in question, would represent
a foolish waste of the time of the
court and an unnecessary expense to
the litigants, the defendant's attor-
neys insisted that, if the motion to
amend was to be granted the court
make an order to the effect that the
issue of ownership should be tried
and determined before any inquiry
should be entered upon concerning
the question of damage. The attor-
neys for the plaintiff were not dis-
posed to accede to this suggestion in
its entirety and requested that the
matter go over together with their
motion to amend until the arrival of
Judge Lindley. The hearing on the
motion was thereupon set for 2
o'clock Saturday afternoon.

AFFIDAVIT SUBMITTED.

Accompanying the application for
a restraining order was the affidavit
of Frederick Bradshaw, general su-
perintendent of the Jim Butler Min-
ing company, reciting the facts of
the suit previously filed claiming
damages and restitution for ores re-
moved from the Curtis and Eureka
claims. Then the affiant states that
large sums of money have been dis-
bursed by the defendant, the West
End company, in payment of divi-
dends, that defendant threatens to
continue to disburse additional large
sums of money and that unless en-
joined by the court the defendant
will expend further sums of money
comprised of the ores taken from the
contested claims commingled with
defendant's other assets and will di-
vert other corporation assets which
would work injury to plaintiff by de-

frauding it of the fruits of any judg-
ment that may be obtained and ren-
der valueless any such judgment. It
is alleged that the entire corporate
assets owned by defendant corpora-
tion consist with the representative
values set opposite thereto, of the
following:

Estimate of Assets.	
Property and Assets—	
Mines and mining claims	\$200,000
Building and machinery at mine	60,000
Stock of Nevada Milling Co.	100,000
732,605 shares of the Hall- fax	146,521
Available Assets—	
Cash on hand at mine and mill	\$ 25,000
Ore stocks and mill absorp- tions	25,000
Cash in banks in Oakland, Cal., Tonopah, Nev., to- gether with loans on col- lateral	350,000

Affiant continues that assets of de-
fendant and the total value of its
property available for levy under ex-
ecution, in the event plaintiff should
recover judgment, does not exceed
the sum of \$306,521 or thereabouts,
that the value of said defendant's
property is highly speculative and
impossible of exact calculation, that
if defendant be allowed to dispose of
its property under the guise of pay-
ing dividends to its stockholders,
pending the final determination of
this suit, its assets will be largely
exhausted and greatly lessen plain-
tiff's ability to realize upon any judg-
ment it might recover, that said divi-
dends were made up largely, if not
wholly, from trespass ores taken
from plaintiff's premises. Then it is
prayed that, in order to preserve the
estate of the defendant from being
frittered away and dissipated, that
plaintiff have the injunctive relief
prayed for.

The complaint goes on to state
that on the 16th day of November
the plaintiff filed and served a notice
of motion to amend the complaint on
file in the following particulars, that
is to say, alleging damages to the
sum of \$1,065,718 and praying for
judgment for that sum and that
judgment be trebled.

The petition asked for an injunc-
tion pendente lite restraining the of-
ficers of the West End from laying
out or disposing of any assets saving
and excepting a sufficient amount to
continue the development, operation
and working of its mining ground
and property and the milling plant
operated in conjunction therewith
and from disbursing any dividends
and from disposing of, or mortgaging,
hypothecating or divesting itself of,
the title to its real or personal prop-
erty, pending the final determination
of this action.

PATIENT IS IMPROVING.

Richard Galligan, who was taken to
the Miners' hospital last week, is im-
proving so rapidly that he will be
removed to his home in Virginia
City by his daughter, Miss Bessie
Galligan, who came here to look after
the comfort of her father.

Belgians Internes Slain By Dutch

(By Associated Press.)
AMSTERDAM, Dec. 3.—Riot-
ing broke out in a Belgian con-
centration camp at Zeist, Hol-
land, according to the News-
paper Het Volk. Dutch troops fired
on the Belgians, killing six and
wounding nine. No details are
yet available.

BOY IN THE LAUPSA HOUSE.

A five boy arrived at the home of
S. O. Lauppa on December 1st with
Dr. McLeod in attendance. Mother
and child are doing well.

INJURED BY AN AUTO IN A BLINDING DUST

MRS. S. R. TANNER RUN OVER
AND RIGHT LOWER LIMB
FRACTURED.

At 7:30 o'clock last evening Mrs.
S. R. Tanner was run down and in-
jured while attempting to cross
Brougher avenue at the intersection
of Main street. No blame is attached
to the driver of the machine.

According to the statements of wit-
nesses, Mrs. Tanner started from the
bank corner to cross the street. At
the same time H. H. Bacon, in his
new Oldsmobile, was proceeding
home. He was rounding the corner
about the same time when a blinding
gust of wind laden with dust whirled
up the street at a terrific speed, shut-
ting out objects from view. Mrs.
Tanner did not see the motor car as

she was bent low trying to stand up
before the blast while Mr. Bacon
could not see ahead of his radiator
and knew nothing until the car struck
the unfortunate woman and the for-
ward wheels passed over her right
leg, causing a fracture of a most
painful nature. Dr. McLeod was
summoned and administered to the
patient.

Mrs. Tanner is the wife of "Doc"
Tanner and a pioneer of the camp,
and her misfortune will evoke the
sympathy of a wide circle of friends.
Mr. Bacon gave orders that the pa-
tient should receive the best atten-
tion and engaged a trained nurse to
attend her. Mrs. Tanner absolves
him from all liability. Mr. Bacon is
also sick abed as an effect of the
shock.